

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OLE K. NILSSEN

Appeal No. 1997-3060
Application 08/181,833

ON BRIEF

Before KRASS, BARRETT, and LALL, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of
claims 1 through 3, 5, 8 through 16, 21 and 27 through 31.
Claims 17 through 20 have been indicated by the examiner to be
directed to allowable subject matter. Claims 4, 6, 7, 22
through 26 and 32 through 45 have been canceled.

The invention pertains to a telephone and auxiliary power distribution system and is best illustrated by reference to representative independent claim 1 reproduced as follows:

1. An arrangement comprising:

a branch telephone exchange system having a set of first signal input/output ports as well as a set of second input/output ports; the first input/output ports being connected with telephone lines from a local telephone company, such that each one of the first input/output ports is connected with one of those telephone lines; the branch telephone exchange system being operative: (i) on receipt of a properly coded signal at any given first input/output port, to provide connection between that given first input/output port and any desired second input/output port; and/or (ii) on receipt of a properly coded signal at any given second input/output port, to provide connection between that given second input/output port and one of the first input/output ports, thereby to provide for connection between said given second input/output port and one of the telephone lines from the local telephone company; and

plural buildings; each building having at least one telephone-type instrument connected, via a signal conveying means, with one of the second input/output ports; the signal conveying means including a pair of signal conductors as well as a wireless signal transmission path;

such that: (i) any given one of said telephone-type instruments may, on command, be connected with one of the first input/output ports, thereby to permit a telephone call to be placed via the local telephone company; and/or (ii) any person may make, via the local telephone company, telephonic connection to any desired one of the telephone-type instruments.

The examiner relies on the following references:

Bendixen et al.	4,890,315	Dec. 26, 1989
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(Bendixen)

Powell (UK) 2 237 709 May. 8, 1991

Claims 1 through 3, 5, 8 through 16, 21 and 27 through 31 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner cites Bendixen with regard to claims 1 through 3, 5, 12 through 16, 21 and 27 through 31, adding Powell, in a new ground of rejection, with regard to claims 8 through 11.

Reference is made to the briefs and answers for the respective positions of appellant and the examiner.

OPINION

At the outset, we note that we do not find many of appellant's arguments to be persuasive since they merely point to certain claim language and state that the reference to Bendixen fails to disclose or suggest such a feature. However, appellant very rarely addresses why it wouldn't have been obvious, within the meaning of 35 U.S.C. § 103, to have provided for such a feature or features in view of the prior art.

Nevertheless, we will reverse the examiner's rejections under 35 U.S.C. § 103 because, in our view, the examiner has failed to establish a prima facie case of obviousness.

In applying Bendixen, which deals with a cellular telephone system, especially for coupling a plurality of telephones or local units to a remote land line telephone system, the examiner identifies, generally, various claimed elements. Taking instant claim 1 as an example and applying Bendixen, it is seen in Figure 3 of Bendixen that control unit and audio units 64 and 66 may be considered the claimed "branch telephone exchange system." It has an input/output port at the antenna/radio telephone side of the figure and it has a plurality of input/output ports (the claimed "set of second input/output ports") on the right side, each port leading to/from a local unit. Since the left side of the figure shows bidirectional arrows at the antenna indicative of transmission and receipt to/from a base station and a remote land line telephone system, as broadly claimed, it is not unreasonable to deduce that the wireless connection may be to "telephone lines from the local telephone company," as claimed.

When the "branch telephone exchange system" in Bendixen receives a properly coded signal at the first input/output port (left side of Figure 3), and that code is indicative of a desired telephone number, the proper connection is made between the first port and any one of the desired second input/output ports, at local units 1...N. It would also be reasonable to assume that calls can flow in the opposite direction, i.e. from second ports, local units, to the first input/output port.

With regard to the claimed "plural buildings," while not expressly shown by Bendixen, one might make the argument that each local unit may be installed in a different building and that doing so would have been within the skill of the artisan. Similarly, we might agree with the examiner that the claimed "signal conveying means including a pair of signal conductors as well as a wireless signal transmission path" is well known. In fact, appellant does not appear to deny this (see page 4 of the principal brief).

However, even viewing the above interpretation in the best light from the examiner's viewpoint, Bendixen still appears to lack a disclosure or suggestion of critical claim

language. Claim 1 requires a "set of first signal input/output ports" [emphasis ours]. It also requires that the branch telephone exchange be operative to provide a connection between the second input/output ports "and one of the first input/output ports" [emphasis ours]. From our reading of Bendixen (see column 2, lines 47-53), it appears that once a unit is placed in communication with the transceiver, "any other unit attempting to use the system to initiate communication via the transceiver will receive a busy signal from the control unit indicating that the system...is not currently available." Accordingly, it seems that there is only one channel, or a single first input/output port in Bendixen. If so, Bendixen does not have the plurality of such first input/output ports required by the claim.

Moreover, according to claim 1, each building has a telephone-type instrument connected, via a signal conveying means, with one of the second input/output ports and that signal conveying means must include a pair of signal conductors as well as a wireless signal transmission path. Even if we accept the examiner's interpretation that Bendixen shows such a signal conveying means on the left side of the

figure because the two wires running to the antenna constitute the "pair of signal conductors" and then the antenna provides for a "wireless signal transmission path,"¹ the claim language requires the signal conveying means to be on the right side of Bendixen's figure since the connection must be via the "second input/output ports." However, while the connections to the local units may constitute pairs of signal conductors, we find no indication in Bendixen that there is also a wireless signal transmission path at this location.

Independent claims 12, 27 and 31 contain similar language. Claim 12 requires that the equipment in the buildings be connected "via a wireless signal transmission path, with one of the second input/output ports,..." Claims 27 and 31 require a connection with "one of the first input/output ports" [emphasis ours] but Bendixen only appears to disclose a single first input/output port.

Since Powell (relied on in rejecting claims 8 through 11) does not provide for the deficiencies noted supra with regard

¹The claim does not require the pair of signal conductors and the wireless signal transmission path to be in parallel.

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to Bendixen, claims 8 through 11 will stand with the
independent claims as will the other dependent claims.

The examiner's decision rejecting claims 1 through 3, 5,
8 through 16, 21 and 27 through 31 under 35 U.S.C. § 103 is
reversed.

REVERSED

	Errol A. Krass)	
	Administrative Patent Judge)	
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)	
	Lee E. Barrett)	BOARD OF
PATENT)	
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